Testimony of Robert Spencer
Health and Human Services Committee
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Mr. Chairman and members of the Health and Human Services Committee. My name is Bob Spencer - I am the chief of operations for Center for Solutions, a 15-bed residential-based drug and alcohol addiction treatment facility located near Devils Lake. I appear today to share new information regarding how changes announced by BCBSND are going to change the delivery of addiction and mental healthcare in North Dakota

With the implementation of the Affordable Care Act, there has never been a more important time for this Committee's work. In our history, North Dakota has never experienced a higher demand for addiction and mental health services, particularly among adolescents and young adults. According to SAMHSA's National Survey on Drug Use and Health, 23.5 million persons aged 12 or older (nearly 10 percent) need treatment for an illicit drug or alcohol abuse problem. Just as we experience the greatest demand, we find ourselves in the middle of a muddled mess of rules and regulations, uncertainty, anticipation, and high anxiety. For the record, I support healthcare coverage for all Americans; however, the coverage announced to be implemented beginning January 1, 2014 will only increase the need, hinder access, reduce availability and disrupt the delivery of addiction and mental health services in North Dakota. I do not see that problem stemming from our greater desire to provide universal healthcare, but from economics being the primary driver of decisions, and the public not being protected from insurance industry forces.

It seems logical that providing insurance coverage to everyone would increase access to care – but that will not be the case for addiction and mental health treatment in North Dakota. While the objective of the ACA is greater access, insurance companies and the marketplace have responded to keep that from happening. BCBSND has already announced that as of January 1, 2014, residential services for addiction and mental health treatment will not be a part of the plans it offers, both in and out of the marketplace. Although there are many, let me offer just one example of how that change is going to limit access to service, and shift the cost from insurance carriers to state programs and the North Dakota taxpayer.

I will use treatment for meth addiction, although I could be referring to addiction to a number of drugs causing chronic conditions; but please remember it is the chronic condition, not the drug of choice that providers treat. I use the drug meth because it is easy for many of us to visualize its addictive characteristics and the chronic condition associated with it, although prolonged use of many drugs will produce the same result. We have seen a huge increase in individuals presenting for meth addiction

during this past year – more than we have ever seen in the past. Under the new market-based insurance plans and the coverage offered in BCBS policies, the cost of that treatment will not be covered. There will be no residential coverage for those individuals after January 1. The only covered treatment available to them will be outpatient programs where they attend treatment during the day and return to their home environment at night. The problem is I have never seen an individual with meth, or any other serious addiction, successfully complete treatment without a residential component that can remove the individual from their environment. The ND Legislature has recognized that reality for years as evidenced by its ongoing support for the Robinson Recovery Center in Fargo.

So instead, those patients with similar addictions and without adequate insurance coverage will gravitate to State programs; to the extent those programs exist. The lucky ones will end up in a Department of Human Services Program where they will receive treatment and a second chance. Others won't get help until they find themselves in the criminal justice system. Either way, the taxpayer pays the bill. Not that individuals with serious addictions won't be able to access treatment on an outpatient basis, but they won't be able to access residential care. The chronicity of the addiction and its affect on brain chemistry are simply too great to allow any treatment modality to be successful without taking the individual out of the environment contributing to their problem.

One goal for an "insurance coverage for all" program, especially when taxpayers are responsible for subsidizing the premiums, should be to reduce the size of the safety net government is responsible to provide. I believe the "essential healthcare benefits" defined in the Affordable Care Act by the federal government helps that, but the richness of the plans defined by the State and the State Insurance Commissioner, do not.

As an example, the Conference of State Legislatures ranked prescription drug coverage within the North Dakota essential healthcare benefits package as "least generous" of those in the Nation. There are nearly 10,000 FDA approved prescription drugs...the formulary in the North Dakota benchmark plan approves fewer than 820. If you are wondering about the term "least generous", I believe it is one of those politically correct terms when translated is a nicer way of saying "will cover fewer medications than any other plan in the Nation." I understand the establishment of "minimum coverage", but what we are seeing is the administratively mandated floor for coverage becoming the marketplace ceiling for insurance policies.

There will be consequences, as the mandated floor becomes the marketplace ceiling. The limitations on coverage will influence the delivery of addiction and mental health care, the provision of various treatment modalities, and the ability of numbers of patients to access care at the least restrictive

and most inexpensive level. In addition, the announced changes to insurance policies will affect parity between mental health care and medical care, legislation this body has passed and codified in the North Dakota Century Code and the North Dakota Administrative Rules.

It seems that legislative intent and the safeguards this legislative body has passed are suddenly being overlooked and ignored. Specifically, *26.1-36-08.1* of the North Dakota Century Code speaks to the necessity of every insurance carrier doing business in North Dakota providing coverage for residential addiction and mental health services. The North Dakota Legislature passed that law in 2003 for two express purposes. The first was to insure that North Dakota insurance carriers are fulfilling the obligations outlined in the Federal parity laws and 2) to make sure individuals have coverage for addictions so that the entire burden of treating those addictions does not fall on the backs of ND taxpayers.

The reason those individuals will require longer-term state supported programs is because residential services are a critical element in providers being able to deliver what is referred to by the American Society of Addiction Medicine (ASAM) as a continuum of care. ASAM defines this continuum of care to be the need for hospitalization and 24-hour medical care on one end, to occasional outpatient visits with a counselor on the other. Along that continuum of care are various treatment levels that consist of outpatient programs of less than 10 hours per week, to day treatment programs that consume the majority of each day. Where appropriate, therapists combine treatment programs with residential programs that take the patient out of their former environment for a period to allow them to learn new coping skills and have the opportunity to practice those new skills in a safe environment. Not everyone enters treatment in the same condition, so eliminating a patient's ability to access an important segment of the continuum of care further impedes his or her opportunity for recovery. Removing some of the options in the continuum of care for addiction treatment is analogous to removing some options for cancer therapy. You wouldn't tolerate insurance coverage that only allowed radiation treatment for cancer, while it withheld coverage for surgery or chemotherapy.

That is the challenge addiction and mental health providers are experiencing. Eliminate a cancer benefit or heart procedure and the world cries out. But eliminate or reduce treatment for chemical dependency or mental health and the stigma surrounding those health problems thwart the public outcry. Instead, the public outcry results from the tragedy that occurs because of the individual not having access to treatment, (the suicide, the school shooting, the drunk driver) and the community is left wondering "why"?

That is exactly why residential benefits for addiction and mental health services are codified in NDCC 26.1-36-08.1 and throughout the ND Administrative Rules governing the licensing of addiction and

mental health providers, the establishment of treatment programs, and the provision of those services. That is why the federal government has passed parity laws mandating the same benefits and services for patients with mental health and medical health issues.

What we are beginning to see is insurance companies using the implementation of Obama Care to disregard and ignore services to those who are reluctant to cry out for themselves because of the stigma attached to addiction and mental health disorders. During this transition, insurance companies seem to feel free to disregard parity laws that require equal treatment for medical and mental health issues. Instead, insurance companies have found themselves in a race to the bottom to see which one can provide the least benefits, while still complying with the mandated package of minimum health benefits.

So, please consider how the changes will affect access to appropriate levels of care, how the availability of treatment services will be affected, and how costs are going to be shifted from the insurance provider to state government. In doing so, please make sure the Insurance Department is enforcing the codes as the Legislature intended.

Mr. Chairman and members of the Committee, I encourage you to support the continuation of residential addiction and mental health services in North Dakota. Those services are required to help maintain basic parity between coverage, so that in the process of extending new insurance coverage to potentially 30,000 new people, we are not eroding benefits to the remaining 600,000 citizens of the state. Thank you.

I am prepared to respond to any questions you may have.